IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 229 OF 2005

DEVI KAMAKSHI TRANSPORT CO-OPERATIVE SOCIETY LTD.,THROUGH ITS LIQUIDATOR SHRI NAGUENDRA V.KUDCHADKAR ....Petitioner

Versus

SHRI MARUTI YELLAPPA WADAR AND ANR., ...Respondents

Mr. Gaurish M. Kudchadkar, Advocate for the petitioner.

Mr. Anthony D'Silva, Advocate for the respondent No.1.

Mr. A. V. Nigalye, Advocate for the respondent No.2.

Coram:- R. M. LODHA, J.

Date:- 14th October, 2005

P.C.

Heard Mr. G.M. Kudchadkar, the learned Counsel for the petitioner, Mr. Anthony D'Silva, the learned Counsel for the respondent No.1 and Mr. A. V. Nigalye, the learned Counsel for the respondent No.2.

2. It is true that the wrong provision of law was invoked in the application made by the present petitioner for permitting the Liquidator to continue with the suit, but without giving much credence to that technicality. I am of the view that application ought to have been granted by the Civil Judge, Senior Division, Quepem. The reasons set out in the impugned order are not at all justifiable. It is not in dispute that by the order dated 16/05/2001, the Liquidator was appointed to manage the affairs of the Devi Kamakshi Transport Co-opperative Society Ltd., (Plaintiff). Obviously, upon the Liquidator having been appointed, he was

the only person competent to pursue the suit on behalf of the plaintiff-Society.

3. The inconvenience caused to the respondents could be compensated by award of reasonable cost which I quantify at Rs.2000/- (two thousand).

4. Consequently, the writ petition is disposed of by the following Order :

(i) The Order dated 22.6.2005 is quashed and set aside.

(ii) The application dated 24.4.2005 made by the present petitioner before the Court of Civil Judge, Senior Division, Quepem is granted and the Liquidator is permitted to continue with the suit filed by the Devi Kamakshi Transport Co-opperative Society Ltd.

(iii) Necessary amendment in the cause title of the suit shall be carried out by the plaintiff within four weeks from today.

(iv) The petitioner shall pay cost of Rs.1000/- each to both the defendants.

R. M. LODHA, J.

ssm.